

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 860**

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**Introduced by ~~Assembly Member~~ *Assembly Members Jones and Mansoor***

February 17, 2011

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~~An act to amend Section 19570 of the Government Code, relating to public employment.~~ *An act to add Article 1.5 (commencing with Section 85150) to Chapter 5 of Title 9 of the Government Code, relating to the Political Reform Act of 1974.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 860, as amended, Jones. ~~Public employment: adverse actions.~~ *Political Reform Act of 1974: political contributions.*

*The Political Reform Act of 1974 regulates campaign finance by imposing certain restrictions on candidates for elective offices, chiefly in the form of contribution limits and disclosure requirements.*

*This bill would prohibit corporations and labor unions, including public employee labor unions, from making contributions to candidates for elective office or entities, as specified, that would use contributions to fund a candidate or controlled committee. The bill also would prohibit government contractors or committees controlled by a government contractor from making contributions to an elected officer, or other specified entity, if the contributions would be used to fund a candidate or controlled committee where the elected officer is in a position to award a government contract to such contractor. This bill also would prohibit a corporation, labor union, including a public employee labor union, government contractor, or government employer from deducting*

from an employee's compensation money to be used for political purposes.

The existing Political Reform Act of 1974 makes a violation of the act subject to administrative, civil, and criminal penalties.

By subjecting persons who violate these provisions to criminal penalties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

~~Existing law prescribes procedures for taking adverse action against state employees, other than managerial employees. Existing law defines "adverse action" for the purposes of those procedures.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: ~~majority~~  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares all of the
- 2     following:
- 3     (a) The State of California enjoys every resource necessary for
- 4     a happy and prosperous people: generous farms, a majestic
- 5     coastline, and limitless horizons. Its citizens have imagined wholly
- 6     new industries and created honorable jobs, and their innovations
- 7     in science, technology, and the arts have won admiration the world
- 8     over.
- 9     (b) Yet, for many years, California's government has failed its
- 10    people. Too often, politicians ignore the public's good to favor
- 11    the narrow, special interests.
- 12    (c) Every election year, rich corporations and big labor unions
- 13    pay hundreds of millions of dollars to elect politicians, and the

1 *public interest is buried beneath the mountain of special-interest*  
2 *spending. This conflict of interest yields special tax breaks and*  
3 *public contracts for big business, costly government programs*  
4 *that enrich private labor unions, and burdensome pensions,*  
5 *benefits, and salaries for public employee union members, all at*  
6 *the expense of the people.*

7 *(d) So much of the money overwhelming California's politics*  
8 *starts as deductions from workers' own wages. When their unions*  
9 *or employers require it, many are forced to give up a portion of*  
10 *their paycheck—with no choice in the matter—to politicians and*  
11 *other political causes they do not support.*

12 *(e) Because all workers should be free to contribute to the*  
13 *candidates and political causes of their choice, and in order to*  
14 *curb the actual corruption, and the appearance of corruption, of*  
15 *our government by corporate and labor-union spending, the People*  
16 *of the State of California hereby enact the Corporation and Union*  
17 *Influence Reduction Act in order to accomplish the following:*

18 *(1) To ban corporate and labor union contributions to*  
19 *candidates.*

20 *(2) To prohibit government contractors from contributing money*  
21 *to government officials who award them contracts.*

22 *(3) To free employees of deductions of money from their wages*  
23 *that will be used for politics.*

24 *SEC. 2. Article 1.5 (commencing with Section 85150) is added*  
25 *to Chapter 5 of Title 9 of the Government Code, to read:*

26  
27 *Article 1.5. Corporation and Union Influence Reduction*  
28 *(“Cure”) Act*  
29

30 *85150. This article shall be known and may be cited as the*  
31 *Corporation and Union Influence Reduction Act.*

32 *85151. (a) Notwithstanding any other provision of this title*  
33 *or any other provision of law, no corporation, labor union, or*  
34 *public employee labor union shall make a contribution to any*  
35 *candidate, candidate controlled committee, or to any other*  
36 *committee, individual, organization, agency, or association,*  
37 *including a political party committee, if those funds will be used*  
38 *to make contributions to any candidate or candidate controlled*  
39 *committee.*

(b) Notwithstanding any other provision of this title or any other provision of law, no government contractor, or committee sponsored by a government contractor, shall make a contribution to any elected officer, committee controlled by any elected officer, or other committee, individual, organization, agency, or association, including a political party committee, if those funds will be used to make contributions to any elected officer or committee controlled by any elected officer, if that elected officer makes, participates in making, or in any way attempts to use his or her official position to influence the decision to grant, let, or award a public contract to the government contractor.

85152. (a) Notwithstanding any other provision of this title or any other provision of law, no corporation, labor union, public employee labor union, government contractor, or government employer shall deduct from an employee's wages, earnings, or compensation any amount of money to be used for political purposes.

(b) This section does not apply to deductions for retirement benefits, health, life, death, or disability insurance, or other similar benefit, nor shall it apply to an employee's voluntary deduction for the benefit of a charitable organization organized under Section 501(c)(3) of Title 26 of the United States Code.

(c) An employee is not prohibited by this section from making voluntary contributions in any other manner to a sponsored committee of his or her employer, labor union, or public employee labor union, if the contributions are made with the employee's written consent, which consent shall be effective for no more than one year after it is submitted.

85153. For purposes of this article, the following terms have the following meanings:

(a) "Corporation" means a corporation organized under the laws of this state, any other state of the United States, or the District of Columbia, or under an act of the Congress of the United States.

(b) "Government contractor" means a person who contracts with a government employer to provide goods, real property, or services, including the services of employees represented by a public employee labor union during the term of the contract.

(c) "Government employer" means the State of California and any of its political subdivisions, including, counties, cities, charter

1 counties, charter cities, charter city and counties, school districts,  
2 the University of California, special districts, boards, commissions,  
3 and agencies.

4 (d) "Labor union" means any organization of any kind, or any  
5 agency or employee representation committee or plan, in which  
6 employees participate and which exists for the purpose, in whole  
7 or in part, of negotiating with employers concerning grievances,  
8 labor disputes, wages, rates of pay, hours of employment, or  
9 conditions of work.

10 (e) "Political purposes" means to influence or attempt to  
11 influence the action of voters for or against the nomination or  
12 election of a candidate or candidates, or the qualification or  
13 passage of any measure; or received by or made at the behest of  
14 a candidate, a controlled committee, a committee of a political  
15 party, including a state central committee, and county central  
16 committee, or an organization formed or existing primarily for  
17 political purposes, including a political action committee  
18 established by any membership organization, labor union, public  
19 employee labor union, or corporation.

20 (f) "Public employee labor union" means a labor union in which  
21 the employees participating in the labor union are employees of  
22 a government employer.

23 (g) All other terms used in this article that are defined by this  
24 title or by regulation adopted by the Fair Political Practices  
25 Commission shall have the same meanings as provided therein,  
26 as they existed on January 1, 2011.

27 85154. (a) If provision of this act, or part of it, or the  
28 application of provision or part to any person, organization, or  
29 circumstance, is for any reason held to be invalid or  
30 unconstitutional, then the remaining provisions, parts, and  
31 applications shall remain in effect without the invalid provision,  
32 part, or application.

33 (b) This act is not intended to interfere with any existing contract  
34 or collective bargaining agreement. Except as governed by the  
35 National Labor Relations Act (29 U.S.C. Secs. 151 et seq.), no new  
36 or amended contract or collective bargaining agreement shall be  
37 valid if it violates this act.

38 (c) This act shall be liberally construed to further its purposes.  
39 In any legal action brought by an employee or union member to  
40 enforce the provisions of this act, the burden shall be on the

1 employer or labor union to prove compliance with the provisions  
2 herein.

3 SEC. 3. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

12 SEC. 4. The Legislature finds and declares that this bill furthers  
13 the purposes of the Political Reform Act of 1974 within the meaning  
14 of subdivision (a) of Section 81012 of the Government Code.

15 ~~SECTION 1. Section 19570 of the Government Code is~~  
16 ~~amended to read:~~

17 ~~19570. As used in this article, "adverse action" means~~  
18 ~~dismissal, demotion, suspension, or other disciplinary action. This~~  
19 ~~article shall not apply to any adverse action affecting managerial~~  
20 ~~employees subject to Article 2 (commencing with Section 19590);~~  
21 ~~except as provided in Sections 19590.5, 19592, and 19592.2.~~